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No. 79.1138

In the Supreme Court of the United States

OCTOBER TERM, 1980

RALPH H. SCHULZ, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

REPLY FOR THE PETITIONER IN REBUTTAL

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The first sentence of the respondent's memorandum is a mis-statement of the facts. The major question is whether the respondent's "constructive receipt" regulations and practices are in compliance with the

taxing statutes and the wishes of the Congress.

The non-compliance and nullity of these regulations has already been conclusively proven in the respondent's own case citation, Adams v. Commissioner, 20 B.T.A. 243 (1930), which has also been thoroughly discussed in the Petition to this Court, (p.9, Sec. A, 1), and in plaintiff-appellant's reply to the Appellate Court (p.2, Sec. II). The respondent appears to give great weight to the statement of the House Managers as shown on page 245 of the case report. This statement is no more than "sales talk" used to sell the bill to the House, after the Senate and the Conference Committee wantonly and deliberately removed the "constructive receipt" provision from the bill. Though this statement may qualify as being the wishes of the House at that time, it can not be considered as the wishes of the Congress, nor can it be Law.

The paragraph on page 4 of the memorandum is a distortion of the facts. Though the Constitution does not give the right

to report on the cash receipts and disbursements method per se, after the Congress gave the taxpayer the right to choose this method, the Constitution does guarantee:

1. Under Article I, Section 1, that administrative regulations may not extend, nullify or otherwise amend that right;

2. Under Article VI, that such right is the "supreme Law of the Land", and,

3. Under Amendment V, that a taxpayer shall not be deprived, without due process of law, of the liberty to exercise such right.

The rest of the respondent's memorandum is a restatement of cases and misconceptions already thoroughly refuted in the plaintiff-appellant's reply brief to the Appellate Court, pages 13-18, and is not worthy of further comment.

It is important to note that in all of its presentations of this entire case, the respondent has never shown that the petitioner violated any of the taxing statutes, nor has it ever shown any statutory support for its invalid method.

Instead, the respondent's entire case is based on distortions and mis-construals, (Appellant's Rebuttal p.8-13) and diversionary tactics apparently designed to hide the lack of any valid foundation for its actions.

The petitioner therefor respectfully prays the Court to issue the writ and to decide the issues in the light of the Constitution and the statutes.

Ralph H. Schulz,
Pro se

March 24, 1980